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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/759,473

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Qinghua Li

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INTEL CORPORATION

c/o INTELLEVATE, LLC

P.O. BOX 52050

MINNEAPOLIS, MN 55402

EXAMINER

ROBERTS, BRIAN S

ART UNIT

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2619

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<p align="center"><b>Office Action Summary</b></p>	<b>Application No.</b> 10/759,473	<b>Applicant(s)</b> LI ET AL.	
	<b>Examiner</b> Brian Roberts	<b>Art Unit</b> 2619	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 September 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

- Claims 1-20 remain pending.

#### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 17-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Paragraph [0026] of the specification defines the **computer readable medium** of claim 17 to include "electrical, optical, acoustical or other form of propagate signals (e.g., carrier waves, infrared signals, digital signals, etc.)", which are non-statutory subject matter. Furthermore, in claim 17, line 1-2 "A computer-readable medium that provides instructions" should read --A computer-readable medium storing instructions--. See page 54+ of Interim Guidelines.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-13 and 17-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- In reference to claims 1-13

Claims 1-13 are rejected as being indefinite because the claims recite a device adapted to perform steps but does not claim means or elements in the device to perform the steps.

- In reference to claim 17

Claim 17 recites the limitation "said performing" in line 6. There is insufficient antecedent basis for this limitation in the claim because there is not a previous step of "performing".

- In reference to claims 18-20

Claims 18-20 are rejected as being dependent on independent claim 17.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 17-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Jandrell (US 6459704).

- In reference to claim 17

In Figure 7, Jandrell teaches a station **100** with inherently placing data into at least one transmit queue to perform a data transmission over a wireless communications channel (step 600); monitoring the wireless communications channel subsequent to the performing (step 602); beginning a timeout period responsive to the monitoring determining that the wireless communications channel is not busy (step 610); and reading data inherently from a receive queue to determine if an acknowledgement to the data transmission is received during the timeout period. (step 612) (column 10 line 64 - column 11 line 31)

- In reference to claim 18

In Figure 7, Jandrell further teaches the station aborting the timeout period responsive to receiving the acknowledgement during the timeout period. (step 610)

- In reference to claim 19

In Figure 7, Jandrell further teaches the station beginning an error process responsive to not receiving the acknowledgement prior to an expiration of the timeout period. (step 614, 616)

- In reference to claim 20

In Figure 7, Jandrell further teaches the station monitoring for a clear channel condition. (step 602)

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jandrell (US 6459704).

- In reference to claim 1, 8

In Figure 7, Jandrell teaches a station **100** with a omnidirectional antenna and modulator/demodulation adapted to perform a transmission over a wireless channel to a base station **108** (step 608); begin a timeout period (step 610), wherein the timeout period to measure a time during which an acknowledgement from the base station may be received (step 612). (column 10 line 64 - column 11 line 31)

Jandrell does not teach the station monitoring the wireless channel, subsequent to completion of the transmission, to determine if another device is transmitting over the wireless channel and beginning the timeout period responsive to determining another device is not transmitting to the base station.

In Figure 7, Jandrell teaches the step of monitoring the wireless channel to determine if another device is transmitting to the base station over the single shared wireless channel. (step 602) (column 11 lines 4-10)

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the station and method of Jandrell to include monitoring the

wireless channel as in step 602, subsequent to completion of the transmission of the message in step 608, to determine if another device is transmitting over the wireless channel and beginning the timeout period in step 610 responsive to determining another device is not transmitting to the base station because it would prevent an inadvertent timeout in step 610 before the station was able to receive an acknowledgement from the base station in the event that another station transmitted another message simultaneously or shortly after the station transmitted the message.

- In reference to claim 2

In Figure 7, Jandrell further teaches the station adapted to not begin the timeout period responsive to determining the another device is transmitting over the wireless channel. (step 602)

- In reference to claim 3

In Figure 7, Jandrell further teaches the station adapted to monitor for an acknowledgement to the completed transmission during the timeout period. (step 612)

- In reference to claim 4

In Figure 7, Jandrell further teaches the station adapted to cancel the timeout period responsive to receiving the acknowledgement prior to an end of the timeout period. (step 612)

- In reference to claim 5, 10

In Figure 7, Jandrell further teaches the station adapted to retransmit the transmission responsive to not receiving the acknowledgement prior to the end of the timeout period. (step 614, 616)

- In reference to claim 6, 13

In Figure 7, Jandrell further teaches the station monitoring for a carrier wave. (step 602)

- In reference to claim 7

In Figure 7, Jandrell further teaches the station monitoring for transmission of data. (step 602)

- In reference to claim 9

In Figure 7, Jandrell further teaches the station adapted to not begin the timeout period responsive to determining an absence of the clear channel condition. (step 602)

- In reference to claim 11

In Figure 7, Jandrell further teaches the station adapted to begin an error process responsive to not receiving the acknowledgement prior to the end of the timeout period. (step 614, 616)



- In reference to claim 12

In Figure 7, Jandrell further teaches the station the error process comprises preparing to retransmit the transmission over the wireless channel. (step 614, 616)

- In reference to claim 14

In Figure 7, Jandrell teaches a station **100** transmitting a message over a wireless channel to a base station **108** (step 608); beginning a timeout period (step 610), determining if an acknowledgement to the message is received from the base station during the timeout period (step 612). (column 10 line 64 - column 11 line 31)

Jandrell does not teach the station monitoring the wireless channel, subsequent to completion of the transmission until a clear channel condition is detected, and beginning the timeout period subsequent to detecting a clear channel condition is detected.

In Figure 7, Jandrell teaches the step of monitoring the wireless channel to determine if another device is transmitting to the base station over the single shared wireless channel (*clear channel condition*). (step 602) (column 11 lines 4-10)

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the station and method of Jandrell to include monitoring the wireless channel as in step 602, subsequent to completion of the transmission of the message in step 608, to detect a clear channel condition and beginning the timeout period in step 610 responsive to detecting a clear channel condition because it would prevent an inadvertent timeout in step 610 before the station was able to receive an

acknowledgement from the base station in the event that another station transmitted another message simultaneously or shortly after the station transmitted the message.

- In reference to claim 15

In Figure 7, Jandrell further teaches the station aborting the timeout period responsive to receiving the acknowledgement during the timeout period. (step 610)

- In reference to claim 16

In Figure 7, Jandrell further teaches the station beginning an error process responsive to not receiving the acknowledgement prior to an expiration of the timeout period. (step 614, 616)

### ***Response to Arguments***

9. Applicant's arguments with respect to the independent claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Roberts whose telephone number is (571) 272-3095. The examiner can normally be reached on M-F 10:00-7:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached on (571) 272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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BSR  
11/19/2007

  
11/20/07  
WING CHAN  
SUPERVISORY PATENT EXAMINER